

## 3 FAH-1 H-1500 EQUAL EMPLOYMENT OPPORTUNITY

### 3 FAH-1 H-1510 PROCEDURES FOR PROCESSING COMPLAINTS OF DISCRIMINATION

(CT:POH-160; 03-07-2014)  
(Office of Origin: S/OCR)

### 3 FAH-1 H-1511 ADMINISTRATIVE PROCESSING

#### 3 FAH-1 H-1511.1 *Informal Process*

(CT:POH-160; 03-07-2014)  
(State Only)  
(Foreign Service and Civil Service employees)

- a. See also 29 CFR 1614.105.
- b. Any U.S. citizen employee or applicant for employment who believes that he or she has been discriminated against on the basis of race, color, religion, sex *(including gender identity and pregnancy)*, national origin, age, *genetic information*, disability, *or reprisal may* consult a trained and certified *Equal Employment Opportunity (EEO) Counselor* who has been authorized by the Office of Civil Rights (S/OCR) to conduct counseling for individuals alleging discrimination by a Department of State employee. *Employees and applicants who believe that they have been discriminated against on the basis of sexual orientation should refer to the procedures outlined in 3 FAH-1 H-1520.*
- c. *In order for an employee or applicant to preserve his or her rights under these provisions, the* employee or applicant must contact the EEO *Counselor* within 45 *calendar* days of the date of the *allegation of discrimination* or, in the case of a personnel action, within 45 *calendar* days of the effective date of the action.
- d. Unless the individual elects to proceed with Alternative Dispute Resolution, *managed* by S/OCR, the EEO *Counselor* should make inquiries, conduct interviews, issue notices, file reports, and otherwise carry out his *or* her responsibilities in accordance with the standards and time limits set forth in 29 CFR 1614.105.

### 3 FAH-1 H-1511.2 Formal Complaint Process

(CT:POH-160; 03-07-2014)

(State Only)

(Foreign Service and Civil Service employees)

- a. See 29 CFR 1614.106.
- b. If the *allegation of* discrimination has not been resolved to the employee's or applicant's satisfaction during *the informal process, the employee or applicant, now the "complainant,"* or his *or* her designated representative, may file a formal complaint of discrimination with S/OCR.
- c. If the complainant chooses to file a formal complaint of discrimination, *she or* he must submit his *or* her complaint within 15 calendar days of the date of *receipt of* the *Notice of Right to File*, to the *Director of the Office of* Civil Rights. *S/OCR will process the complaint* in accordance with the provisions of 29 CFR 1614.106 through 29 CFR 1614.504.
- d. EEO Counselors authorized to conduct counseling activities for the Department on behalf of S/OCR are not authorized to receive formal complaints of discrimination.

### 3 FAH-1 H-1512 CONFIDENTIALITY AND FREEDOM FROM RESTRAINT

(CT:POH-160; 03-07-2014)

(State Only)

(Foreign Service and Civil Service Employees)

- a. See also 29 CFR 1614.105(g).
- b. At the *informal process* of any *allegation* of discrimination, the EEO *Counselor must* not:
  - (1) Attempt in any way to restrain the employee or applicant from filing a complaint of discrimination; or
  - (2) Reveal the identity of any person who consulted the EEO *Counselor* on any *allegation* of discrimination, except when expressly authorized to do so by the employee or applicant, or *a* formal complaint of discrimination has been *filed with* S/OCR, or the employee *or* applicant has filed suit in federal district court.

### 3 FAH-1 H-1513 RIGHT TO REPRESENTATION

(CT:POH-160; 03-07-2014)

(State)

(Foreign Service and Civil Service Employees)

- a. See also 29 CFR 1614.605.
- b. At any stage in the processing of a complaint, including the informal *process*, the complainant has the right to be accompanied, represented, and advised by a representative of his *or* her choice.

### 3 FAH-1 H-1514 OFFICIAL TIME

(CT:POH-160; 03-07-2014)

(State Only)

(Foreign Service and Civil Service Employees)

- a. See also 29 CFR 1614.605.
- b. The complainant and his *or* her representative should have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to Agency and EEOC requests for information.
- c. Individuals who require official time in order to participate in the EEO process should submit a leave request for such time in accordance with established leave procedures.
- d. *EEOC's guidance makes it clear that the right to official time is a qualified right that must be balanced against the agency's need to have the employee continue to perform his or her duties. The actual number of hours to which a complainant and his or her representative are entitled will vary, depending on the nature and complexity of the complaint, the state in the process of the complaint, and considering the mission of the agency and the agency's need to have its employees available to perform their normal duties on a regular basis.*
- e. *S/OCR has determined that as a matter of policy, up to eight hours of official time may be considered "reasonable" during the informal process, and up to eight hours of official time may be considered "reasonable" during the formal process. Management should review each employee's request for official time on a case-by-case basis.*
- f. Any questions regarding whether or not time requested meets or exceeds the requirements of *official* time should be directed to the *Chief of Intake and Resolution Section in S/OCR*.

### 3 FAH-1 H-1515 REPORT REQUIREMENTS-DISPOSITION OF COMPLAINTS

(CT:POH-160; 03-07-2014)

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*(State Only)*

*(Foreign Service and Civil Service)*

- a. EEO Counselors must submit reports to S/OCR as directed by the Office of Civil Rights.*
- b. Individuals who file formal complaints, in accordance with 29 CFR 1614.106, will receive a letter acknowledging receipt of the formal complaint and a copy of the EEO Counselor's Report.*

### **3 FAH-1 H-1516 THROUGH H-1519 UNASSIGNED**